



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

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Salt Lake City, UT 84101-1345  
<http://www.blm.gov/ut/st/en.html>



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DIV. OF OIL, GAS & MINING

### DECISION

Foster Wilson	:	Potash Prospecting Permit
14605 Geronimo Trail	:	Applications
Reno, Nevada 89521	:	UTU-88800 to UTU-88805
		UTU-88814 to UTU-88820
		UTU-88842 to UTU-88852

### Potash Prospecting Permit Applications Rejected Cases Closed

On November 10, 17, and 28, 2011, you filed 24 prospecting permit applications (PPAs) with the Bureau of Land Management (BLM) Utah State Office for 57,038 acres of public lands in Tooele and Box Elder Counties north of Wendover, Utah, in the Pilot Valley. Activities on public lands in Pilot Valley must be undertaken in accordance with the Box Elder and Pony Express Resource Management Plans (RMPs). The BLM has carefully considered your applications in light of the existing RMPs and the resource values present in Pilot Valley.

The proposed prospecting area is bisected by a "high potential route segment" of the California National Historic Trail (NHT), which was designated by Congress after adoption of the RMPs. The BLM's mineral evaluation report of the potash deposit in Pilot Valley concludes that, given the geology of the deposit, prospecting wells would have to be drilled in the vicinity of the trail segment to properly characterize the deposit. The BLM has determined that before considering whether prospecting may take place on the Pilot Valley play, it is in the public interest to undertake a land use plan amendment process for the RMPs so that BLM may carefully consider, with full public input, the potentially competing resource values and uses in the area and establish appropriate land management prescriptions for the subject lands in light of Congress' designation of the NHT. Further, allowing prospecting to go forward without engaging in this process may lead to unwarranted or misplaced expectations.

The National Trails System Act of 1968 established policies for the management of the National Historic Trails, and states that "other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established." As mentioned, Congress designated the California NHT in 1992, subsequent to the adoption of the Box Elder and Pony Express RMPs. The National Park Service completed a Comprehensive Management Plan



(CMP) for the trail in 1999. The segment of the NHT located in the proposed project area is known as the Hastings Cutoff and is well-recognized in historical documentation as the route taken by the infamous Donner-Reed Party in 1846. The proposed prospecting would be within the vicinity of this "high potential route segment," where little to no modern development is visible from the trail. The 1999 CMP identified the trail segments within the proposed project area as "high potential route segments" and identified two "high potential historic sites" in the vicinity. The National Trails System Act defines "high potential historic sites" as those sites related to the route which provide opportunity to interpret the historic significance of the trail during the period of its major use; criteria considered when identifying these high potential historic sites included historic significance, presence of visible historic remnants, scenic quality, and relative freedom from intrusion. The Act defines "high potential route segments" as those segments which afford high quality recreation experience in a portion of the route having greater than average scenic values or affording an opportunity to vicariously share the experience of the original users of a historic route.

In addition, the two governing RMPs do not adequately consider the implications of large-scale mineral leasing and development to the NHT and associated values. Although the RMPs currently authorize mineral leasing and development in the area, the RMPs and their environmental impact statements were prepared with no consideration of the impact of mineral leasing and development to the NHT and the values identified by Congress in designating it. Before prospecting takes place that may lead to mineral leasing and development in the subject area, BLM has determined that it would be in the public interest to undertake a land use plan amendment process and supporting environmental analyses that include consideration of mineral leasing and development in light of the NHT's designation.

BLM planning regulations at 43 CFR §1610.5-5 state that plan amendments shall be initiated to consider, among other things, a change in circumstances that may affect land use allocations. Congressional designation of the NHT constitutes a change in circumstances that could change land use allocations in Pilot Valley. Neither the Box Elder nor the Pony Express RMP currently addresses the uses or allocations that are allowable, restricted, or prohibited on public lands in view of the presence of the trail resource. Engaging in further land use planning is therefore appropriate to ensure that the RMPs take into account the purposes of the National Trails System Act and the BLM's policy regarding national scenic and historic trails management.

The BLM's ability to amend the RMPs is restricted by the 2000 and 2006 National Defense Authorization Acts (NDAAs). Under the NDAAs, before an RMP amendment could be adopted, the Department of Defense (DoD) would have to prepare and submit to Congress a study of how activities on the land would impact military operations in that area. To the BLM's knowledge, the DoD has never completed such a study. The BLM has completed several Programmatic Land Use Plan Amendments, which modified land use plans in Utah, with a specific exception for the Pony Express and Box Elder RMPs and other plans affected by the NDAAs. Consequently, until the process contemplated by the NDAAs can be culminated, BLM's ability to undertake a land use plan amendment process is restricted.



## Decision

For these reasons, and in accordance with the authorized officer's discretionary authority in 43 CFR §3505.50(a), I find that it is in the public interest to reject the prospecting permit applications listed above in their entirety.

## Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842.1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21)(58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

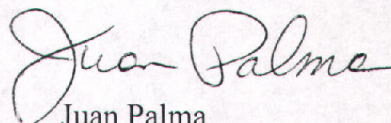
## Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards.

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions concerning this decision, please contact me at (801)977-4310.

Sincerely,



Juan Palma  
State Director

Enclosure: Form 1842-1

cc: Lynn Kunzler, Leslie Heppler UDOGM